THE HONOURABLE SRI JUSTICE
A.GOPAL REDDY
and
THE HONOURABLE SRI JUSTICE
P.SWAROOP REDDY

W.P.No.14583 of 2007

Dt.26-09-2007

Between:
Manjula

..Petitioner

and

The Collector and District Magistrate
Ananthapur and two others.

..Respondents.

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W.P.No.14583 of 2007

Oral Order: (Per Hon'ble Sri Justice ***A.Gopal Reddy***)

The wife of Yerikala Ramanjineyulu, namely, Smt.Manjula invoked the Habeas Corpus jurisdiction of this Court under Article 226 of the Constitution for quashing the detention order by declaring the detention of her husband as illegal and void.

2. The Collector and District Magistrate—1st respondent herein made the detention order under Section 3(1) and (2) r/w Section 2(a) & (b) of A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short "the Act 1/1986") that he has satisfied to detain Ramanjineyulu, as he is found to be a "*bootlegger*" within the meaning of Section 2(a) and 2(b) of the Act and he shall be detained to further prevent from indulging in such dangerous activities prejudicial to the maintenance of public order for a period of three months from the date of detention and lodged in Central Prison, Cherlapalli, Hyderabad.

3. The grounds of detention as enclosed to the detention order also discloses that Yerikala Ramanjineyulu the alleged detenu was in the habit of doing illegal business in arrack in a large scale in a clandestine manner at regular intervals violating Prohibition Act and

Excise Act. The samples, which were drawn from him, are proved to be diluted arrack containing sediment, unfit for human consumption and injuries to health. Accordingly, Cr.No.221/2006-07, Cr.No.411/2006-07 and 442/2006-07 of Prohibition and Excise Station, Hindupur were registered on different dates while he was clandestinely transporting 1,000 arrack sachets each in all the above crimes. The said detention order has been approved by the Government in G.O.Ms.No.2343 dated 02-05-2007 under sub-section (3) of Section 3 of the Act 1/1986. On referring the matter to the Advisory Board, who in its report dated 08-06-2007, after hearing the detenu and the investigating officers, opined that there is sufficient cause for the detention of the detenu—Yerikala Ramanjineyulu husband of the petitioner. On considering the report of the Advisory Board, the Government in exercise of the powers conferred under sub-section (1) of section 12 r/w Section 13 of the Act 1/1986 through G.O.Rt.No.3342 dated 13-06-2007 confirmed the detention order, directing the detention of Yerikala Ramanjineyulu be continued for a maximum period of 12 months from the date of his detention i.e. 27-04-2007.

4. We have heard the learned counsel for the petitioner as well as learned Advocate General for the respondents.

5. Learned counsel for the petitioner contended that the public analyst report clearly goes to show that ethyl alcohol content is within the permissible limits and non-informing the detaining authority about petitioner releasing on bail is fatal of the detention order.

6. It is not necessary to go into all the details about the detention order. On hearing the arguments advanced by either side, suffice it to

say that the detention order passed by the 1st respondent—detaining authority on 24-04-2007 specifying the period of three months itself vitiates the detention order. Further, the Government in G.O.Rt.No.2343 dated 02-05-2007 approved the detention order passed by the 1st respondent, detaining the alleged detenu for a period of three months. Even assuming that the Government approved the detention order after considering the report of the Advisory Board, who only opined that there is sufficient cause for the detention of the detenu, it is only for a period of three months as mentioned in the detention order but not beyond the said period. Section 3 (2) of the Act only deals with delegation of powers of detention but not the detention period.

7. It is categorically held by the Supreme Court in ***MAKHAN SINGH TARSIKKA v. STATE OF PUNJAB***[1] that if the detention authority specifies the period of detention the whole detention order vitiates and the consequential approval order cannot be sustainable. The same has been approved by the Constitutional Bench in ***DATTATRAYA V. STATE OF BOMBAY***[2] In view of the same, the detention order as well as consequential approval order passed by the State Government cannot be upheld and the same is accordingly set-aside.

8. In the result, writ petition is allowed and the order of detention passed in Rc.No.182/2007/A3 dated 24-04-2007, as approved by the State Government, is set aside and the detenu, namely, Yerikala Ramanjineyulu is set at liberty forthwith.

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A.GOPAL REDDY, J.

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P.SWAROOP REDDY,J

26-09-2007

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[1] AIR 1952 SC 27

[2] AIR 1952 SC 181